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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/560,611

12/13/2005

Lloyd Harvey Williams

5774

9162

26936 7590 11/17/2008  
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EXAMINER

BUCKLE JR, JAMES J

ART UNIT

PAPER NUMBER

3633

MAIL DATE

DELIVERY MODE

11/17/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/560,611	<b>Applicant(s)</b> WILLIAMS, LLOYD HARVEY	
	<b>Examiner</b> JAMES J. BUCKLE JR	<b>Art Unit</b> 3633	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 February 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/13/2005</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement filed 12/13/2005 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

### ***Claim Clarifications***

2. Regarding claim 12: It appears applicant intends to claim alternative limitations. A preferred wording for alternative expressions is a Markush Group. A Markush Group and its application are discussed in the MPEP Paragraph 2173.05(h).  
Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. Regarding claims 3, and 7, the phrase "preferably" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173. The examiner suggests deleting the phrase "preferably" to clarify the claim. The claims are examined as best understood.

4. Regarding claim 9, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

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5. Claims 10-11 recites the limitation "'connector member'". There is insufficient antecedent basis for this limitation in the claim. Applicant should recite "connector" or establish an antecedent basis for "connector member". Appropriate correction is required. Claims are examined as best understood.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

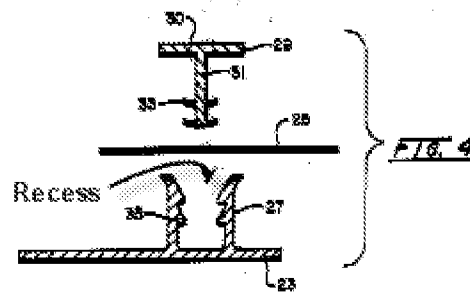
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-2, 4-6, 8, 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Meadows (U.S. Patent No. 4,233,790).

8. Regarding claim 1, Meadows discloses a system (Fig. 1) for securing a covering (25) to a frame (23) including a longitudinal frame member with a longitudinally extending recess (Recess, Annotated Fig. 4), the recess having a plurality of longitudinally extending ribs (35) on each opposing face of the recess walls, and a resiliently deformable sealing member (29) having a substantially complementary profile to the recess; wherein said covering is locatable between said recess and the inserted sealing member and secured in position by the outwardly directed spring bias (33) of the inserted sealing member against the recess walls. The examiner considers the integral flexible projections (33, Col. 3, lines 12-15) to qualify the "seal" (29) as resiliently deformable.

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Reproduced from U.S. Patent No. 4,233,790

9. Regarding claims 2 and 6, Meadows discloses two longitudinally extending ribs (35, Fig. 4) on each opposing inner face of the recess walls that can engage complementary grooves in the sealing member (29), thereby providing for the securing of the covering by both ribs on one recess face when the sealing member is inserted.

10. Regarding claims 4 and 8, Meadows discloses a sealing member that has two relatively independent legs (33, each side of the stem 31) which are biased to moving "outwardly" and operate substantially independently.

11. Regarding claim 5, Meadows discloses a structural assembly (Fig. 1) including a plurality of longitudinal frame members (23), each of the frame members has a longitudinally extending recess (Recess), each of said recesses has a plurality of longitudinally extending ribs (35) on each opposing face of the recess walls, a connector (Nails, Col. 2, lines 57-58) for connecting the frame members, one or more resiliently deformable sealing members (29), each of said sealing members has a substantially complementary profile to the recess, and one or more coverings (25) wherein each of the coverings is locatable between said recess and the inserted sealing member and

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secured in position by the outwardly directed spring bias (33) of the inserted sealing member against the recess walls.

12. Regarding claim 12, Meadows discloses an assembled structure that includes a "temporary accommodation" (Abstract). The examiner considers the cover recited in the abstract to be broad and reasonable enough to read on a temporary accommodation.

13. Regarding method claim 13 in view of the structure disclosed by Meadows, the method of assembling the frame would have been inherent, since it is the normal and logical manner in which the frame could be assembled.

14. Regarding claim 14, Meadows discloses a "modular" structure (Fig. 1) where two or modules (22, 24; Col.4, lines 5-6) can be joined to form a structure of a desired size.

### ***Claim Rejections - 35 USC § 103***

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

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4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
17. Claims 3, 7 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meadows (U.S. Patent No. 4,233,790).
18. Regarding claims 3 and 7, Meadows discloses a frame member that is capable of providing integral strength and surfaces but does not disclose a frame that is substantially cylindrical without edges to avoid abrasive wear of the contacting covering, however. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a cylindrical-shaped frame, since there is no invention in merely changing the shape or form of an article without changing its function except in a design patent. *Eskimo Pie Corp. v. Levous et al.*, 3 USPQ 23. In addition, it would have been an obvious design choice to one of ordinary skill in the art to have a cylindrical-shaped frame that would ultimately result in a frame without edges.
19. Regarding claim 15, Meadows discloses modular units (22, 24) of the structure (23), but does not disclose the modular units being formed when the structure is longer or wider than 6 meters. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modular units being formed when the structure is longer or wider than 6 meters, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Due to the indefiniteness of the claims no allowability determinations can be made at this time.

***Conclusion***

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES J. BUCKLE JR whose telephone number is (571)270-3739. The examiner can normally be reached on Monday-Thursday, Alternating Friday 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Brian Glessner  
Examiner  
Art Unit 3633



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JJB

/Brian E. Glessner/

Supervisory Patent Examiner, Art Unit 3633